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Portland, OR 97209-4128
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FILED '08 JUN 23 15:03 USDC-ORP

Attorney for Defendants

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

MARGO McCOY and JODI WHITTON,
a/k/a **JOANNE WHITTON**, individually,

Plaintiffs,

v.

PRIMARY RESIDENTIAL MORTGAGE,
a foreign corporation registered to do
business in Oregon also doing business as
PRIMARY RESIDENTIAL MTG, INC.,
and **SCOTT M. ROBERTS**, individually,

Defendants.

CV '08 - 758 AA
No. _____

NOTICE OF REMOVAL

By Defendants

Pursuant to 18 U.S.C. § 1446

TO: The Judges and the Clerk of the United States District Court for the District of Oregon.

Defendants Primary Residential Mortgage ("PRM") and Scott M. Roberts ("Roberts")
(collectively, "Defendants") hereby give notice, pursuant to 28 U.S.C. § 1446, that this action is
removed to this Court from the Circuit Court of the State of Oregon for the County of
Multnomah. Defendants further state:

On or about May 21, 2007, Margo McCoy and Jodi Whitton ("Plaintiffs") filed a
Complaint against Defendants in the Circuit Court of the State of Oregon for the County of
Multnomah (the "State Action"). The State Action has been assigned case number 0805-07453.
Service of Plaintiffs' Summons and Complaint was effected on Primary Residential Mortgage on

1- NOTICE OF REMOVAL

68559-0001/LEGAL14391071.1

21311

Perkins Coie LLP
1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

May 30, 2008 and on Roberts on or about June 12, 2008. Copies of the Summons and Complaint served on PRM and Roberts are attached as Exhibit A and B, respectively. This notice is filed within thirty (30) days of Defendants' receipt of the Complaint, as required by 28 U.S.C. § 1446(b).

1. Jurisdiction. This action is a civil action of which the Court has original jurisdiction under 28 U.S.C. § 1332 (diversity jurisdiction), and is one that Defendants may remove to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446 in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

2. Diversity of Citizenship. Complete diversity of citizenship exists because of the following:

(a) Defendants are informed and believe, and on that basis allege, that Plaintiffs, at the time they commenced this action, was, and still are, citizens of the State of Oregon.

(b) Defendant PRM, at the time Plaintiff commenced this action, was, and still is, a corporation incorporated under the laws of Nevada, with its principal place of business located in Salt Lake City, Utah.

(c) Defendant Scott M. Roberts is a citizen of the State of Oregon. However, the Court should disregard Mr. Robert's citizenship for purposes of determining jurisdiction under 28 U.S.C. §§ 1332 and 1441(b) on the ground that he is a "fraudulently joined" defendant whose citizenship must be ignored for purposes of determining diversity jurisdiction. *Morris v. Princess Cruises, Inc.*, 236 F.3d 1061, 1067 (9th Cir. 2001).

Plaintiffs' Complaint alleges three causes of action against Mr. Roberts: (1) intentional infliction of emotional distress ("IIED"); (2) intentional interference with economic relations ("IIER"); and (3) unjust enrichment. However, Plaintiffs have failed to plead necessary elements of each of these causes of action.

2- NOTICE OF REMOVAL

On their IIED claim, Plaintiffs have failed to allege, among other things, that Mr. Roberts engaged in "conduct extraordinarily beyond the bounds of socially tolerable behavior." *McGanty v. Staudenraus*, 321 Or. 532, 543 (1995).

On their IIER claim, Plaintiffs have failed to allege, among other things, that Mr. Roberts was a "third party" to Plaintiffs' relationship with PRM. *McGanty v. Staudenraus*, 321 Or. at 538-43. In addition, while Plaintiffs make a conclusory allegation that Mr. Roberts interfered with "other potential employers" by "publishing false information regarding Plaintiffs' employment" (Complaint ¶ 46), Plaintiffs have failed to allege the necessary elements of an IIEC claim.

On their unjust enrichment claim, Plaintiffs have failed to allege that they conferred any benefit on Mr. Roberts, that he was aware of any such benefit which might have been conferred, or that circumstances exist which make it unjust for Mr. Roberts to retain any such benefit which might have been conferred without paying for it. *Volt Services Group v. Adecco Employment Services, Inc.*, 178 Or. App. 121, 133 (2001).

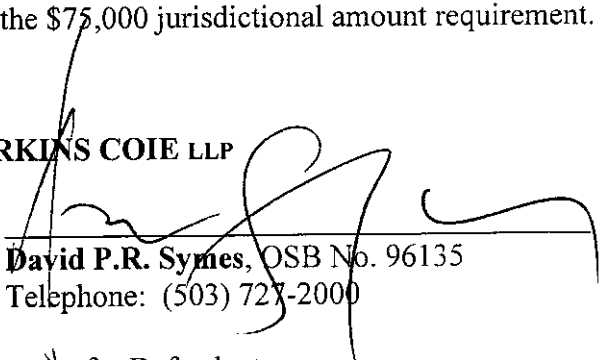
In short, Plaintiffs have not provided any genuine basis for imposing common law liability on Mr. Roberts in his individual capacity. Since Mr. Roberts has been "fraudulently joined" as a defendant, his citizenship should not factor into determining the proper jurisdiction for this case.

3. Amount in Controversy. The amount in controversy requirement is met because each Plaintiff alleges damages in excess of the \$75,000 jurisdictional amount requirement.

DATED: June 23, 2008.

PERKINS COIE LLP

By


David P.R. Symes, OSB No. 96135
Telephone: (503) 727-2000

Attorneys for Defendants

3- NOTICE OF REMOVAL

68559-0001/LEGAL14391071.1

Perkins Coie LLP
1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
Phone: 503.727.2000
Fax: 503.727.2222

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **Notice of Removal** on:

Karen Read
karenr@readlawyers.com
833 SW 11th Avenue, Suite 628
Portland, OR 97205
Fax: (503) 210-0477

Attorney for Plaintiffs

by causing a full, true, and correct copy thereof, addressed to the last-known office address of the attorney (except when served by fax), to be sent by the following indicated method or methods, on the date set forth below:

- ☒ by **mailing** in a sealed, first-class postage-prepaid envelope and deposited with the United States Postal Service at Portland, Oregon.
- ☐ by **hand-delivery**.
- ☐ by sending via **overnight courier** in a sealed prepaid envelope.
- ☒ by **email transmission** to said attorneys at the email addresses set forth above.

DATED: June 23, 2008.

PERKINS COIE LLP

By

David P.R. Symes, OSB No. 96135
DSymes@perkinscoie.com

Attorneys for Defendants

CT CORPORATION
A WoltersKluwer Company

**Service of Process
Transmittal**

05/30/2008

CT Log Number 513479471



TO: Daryl Lee, Gen. Csl.
Primary Residential Mortgage, Inc.
4750 Wiley Post Way, Suite 200
Salt Lake City, UT 84116-2873

RE: Process Served in Oregon

FOR: Primary Residential Mortgage, Inc. (Domestic State: NV)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Margo McCoy and Jodi Whitton, etc., Pltfs. vs. Primary Residential Mortgage Inc., etc., and Scott M. Roberts, etc., Dfts.
Name discrepancy noted.

DOCUMENT(S) SERVED: Summons and Notice, Proof of Service Form, Complaint

COURT/AGENCY: Multnomah County Circuit Court, OR
Case # 080507453

NATURE OF ACTION: Employee Litigation - Wrongful Termination - Intentional Infliction of Emotional Distress - Intentional Interference with Economic Relations - Unjust Enrichment

ON WHOM PROCESS WAS SERVED: C T Corporation System, Salem, OR

DATE AND HOUR OF SERVICE: By Process Server on 05/30/2008 at 12:30

APPEARANCE OR ANSWER DUE: Within 30 days

ATTORNEY(S) / SENDER(S): Karen E. Read
3833 S.W. 11th Ave., Suite 628
Portland, OR 97205
503-243-4088

ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex Standard Overnight , 790517290560

SIGNED: C T Corporation System
PER: Patricia McGriff
ADDRESS: CT Corporation System
388 State Street, Suite 420
Salem, OR 97301
TELEPHONE: 503-566-6883

Page 1 of 1 / DW

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

EXHIBIT

A

PAGE

1

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

12:30
5-30-08

MARGO McCOY and JODI WHITTON also known as
JOANNE WHITTON, individually,

Plaintiffs,

vs.

PRIMARY RESIDENTIAL MORTGAGE,
a foreign corporation registered to do business in Oregon
also doing business as PRIMARY RESIDENTIAL MTG.
INC., SCOTT M. ROBERTS, individually,

Defendants.

Case No.:

0805-07453

SUMMONS

To: PRIMARY RESIDENTIAL MORTGAGE dba PRIMARY RESIDENTIAL MTG
c/o C T CORPORATION SYSTEM
388 STATE ST STE 420
SALEM, OR 97302

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, judgments will apply to the court for the relief demanded in the complaint.

**NOTICE TO THE DEFENDANT:
READ THESE PAPERS CAREFULLY!**

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have questions you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.


SIGNATURE OF ATTORNEY FOR PLAINTIFF(S) 5/21/08 Date

Karen E. Read OSB# 95390
ATTORNEY'S/AUTHOR'S NAME BAR NO.

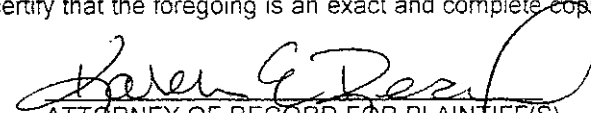
3833 S.W. 11th Ave., Suite 628
ADDRESS

Portland, OR 97205 (503) 243-4088
CITY STATE ZIP PHONE

TRIAL ATTORNEY IF OTHER THAN ABOVE BAR NO.

STATE OF OREGON, County of Multnomah) ss.

I, the undersigned attorney of record for plaintiff(s), certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.


ATTORNEY OF RECORD FOR PLAINTIFF(S)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

LAW OFFICE OF KAREN READ
ATTORNEYS FOR PLAINTIFFS
833 S.W. 11th Ave., Suite 628
Portland, OR 97205
Telephone (503) 243-4088


ATTORNEYS FOR PLAINTIFF(S)

EXHIBIT A
PAGE 2

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

MARGO McCOY and JODI WHITTON also
known as JOANNE WHITTON, individually,

Plaintiffs,

v.

PRIMARY RESIDENTIAL MORTGAGE,
a foreign corporation registered to do business
in Oregon also doing business as PRIMARY
RESIDENTIAL MTG, INC.; SCOTT M.
ROBERTS, individually,

Defendants.

Case No. 0805-07453

COMPLAINT

Wrongful Discharge in Violation of Public
Policy; Intentional Infliction of Emotional
Distress; Intentional Interference with
Economic Relations; Unjust Enrichment

(Not Subject to Mandatory Arbitration)

DEMAND FOR JURY TRIAL

For a claim for relief against Defendant, Plaintiffs hereby alleges as follows:

FACTUAL STATEMENT

1

At all material times, Plaintiff Margo McCoy was and is a citizen of the United
States, residing in Washington County, Oregon.

2

At all material times, Plaintiff Jodi Whitton also known as Joanne Whitton
(hereinafter "Ms. Whitton" or "Jodi Whitton") was and is a citizen of the United States, residing
in Yamhill County, Oregon.

3

At all material times, defendant Primary Residential Mortgage and also doing

1 business under the assumed business name of "Primary Residential Mtg., Inc." (hereinafter
2 "PRM Utah") was a foreign corporation registered to do business in the State of Oregon and at
3 all material times were Plaintiffs' employer and conducted regular and sustained business
4 activity in Multnomah County, Oregon.

5 4

6 At all material times, defendant Scott M. Roberts (hereinafter "defendant
7 Roberts") was and is a citizen of the United States, residing in Yamhill County, Oregon, and an
8 authorized agent of and/or employed by PRM Utah and was, in substantial part, acting within
9 the scope of such agency and employment. At all material times, PRM Utah was vicariously
10 liable for the acts of its agents and employees who were acting within the scope of their
11 employment.

12 5

13 Plaintiff McCoy was hired by PRM Utah on or about May 10, 2006 as a full time loan
14 officer. Throughout her employment with PRM Utah, Plaintiff McCoy consistently performed
15 her work duties successfully, meeting or exceeding the requirements of her job position.

16 6

17 Plaintiff Whitton was hired by PRM Utah on or about August 10, 2005 as a full time
18 loan officer assistant, whose job responsibilities included identifying and referring potential
19 clients to defendant Roberts to finalize home loans, as well as undertaking marketing efforts for
20 the office with a \$1,200 per month budget for said activities. Throughout her employment with
21 PRM Utah, Plaintiff Whitton consistently performed her work duties successfully, meeting or
22 exceeding the requirements of her job position.

23 7

24 Prior to their employment, Plaintiffs were both promised substantial assistance from
25 defendants, through access to a database of names and contact information for potential clients.

1 Said assistance was never provided to plaintiffs even after plaintiffs' complaints while it was
2 given to other male employees.

3 8

4 Beginning in or around June, 2006, defendant Roberts, the Manager of PRM Utah's
5 Oregon offices, began engaging in harassing conduct against plaintiffs because of plaintiffs'
6 female gender. In addition, defendant Roberts was engaging in harassing conduct against
7 Plaintiff Whitton because of her age and disability: Plaintiff Whitton was 56 years old in June
8 2006 and had left sided deficits, including extremely limited use of her left hand and arm due to
9 a stroke she had suffered in May, 2005.

10 9

11 Defendant Robert's harassing conduct towards plaintiffs included constant hostile,
12 bullying, and belittling comments to plaintiffs. On occasion, these comments were said in the
13 presence of other employees—including at staff meetings. Roberts regularly and
14 inappropriately engaged in hostile and demeaning verbal and sexist conduct towards plaintiffs.
15 This included comments about women's body parts, including referring to the breasts of a friend
16 of Plaintiff Whitton as "jugs" after a professional business meeting with this individual and the
17 "stupid" women vendors who were only hired because they were "hot." Additionally, Plaintiff
18 Whitton was treated substantially worse than the much younger female employees. Plaintiffs
19 resisted, opposed, and complained to Roberts about the above-described hostile and
20 discriminatory treatment that they were receiving.

21 10

22 On or about July, 2006, plaintiffs, along with other PRM employees were required to be
23 present for a golf function sponsored by defendants at the Portland Golf Club for its clients,
24 vendors and other colleagues.

25 ///

26 COMPLAINT - Page 3

LAW OFFICE OF KAREN READ
833 S.W. 11th Avenue, Suite 628
Portland, OR 97205
(503) 243-4088 (phone); (503) 210-0477 (fax)

EXHIBIT
PAGE

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5

11

At this function, plaintiffs, were asked by defendant Roberts to hand out shirts to all attendees which were imprinted with a statement developed by defendant Roberts which had sexual connotation.

12

Defendant Roberts also brought and forced Plaintiff McCoy to hide and serve hard alcohol on the open golf course in violation of Course policy & city ordinance. Plaintiff Whitton also observed his providing and drinking alcohol on the open course. Plaintiffs objected to defendant Roberts, clearly indicating to him that his actions related to and at the golf function were inappropriate, possibly illegal, unwelcome and/or caused them extreme discomfort.

13

On another occasion, defendant Roberts' excessive drinking at a lunch meeting with a potential client referred by Plaintiff Whitton caused this individual to pull out of the deal because he didn't have confidence in a loan officer who would drink like that at lunch in front of a potential client. This individual was seeking financing for a multi-million dollar, multiple dwelling purchase, from which Plaintiff Whitton would have been entitled to at least a 20% share of any commission earned by defendant Roberts had his behavior not made the potential client change his mind about doing business with Primary Residential Mortgage.

14

On several occasions, defendant Roberts demanded that plaintiffs wear ill fitting company shirts, even after they complained to Roberts that the shirts cut across plaintiffs' breasts making them feel obscene. When plaintiffs refused to wear the shirts to an industry wide training course, in plaintiffs' presence, defendant Roberts engaged in verbally demeaning and sexist conduct in front of another attendee who worked at a different company.

15

The sexist, discriminatory, harassing, and hostile work environment escalated into the fall. To further discriminate and retaliate against plaintiffs, Roberts created a hostile work environment for plaintiffs by yelling at them and writing scathing emails to plaintiffs. The younger and/or male employees of PRM Utah were not subjected to this hostile work environment.

16

Shortly before her termination, Plaintiff Whitton complained to defendant Roberts that the clients she was referring to him were not being served adequately or in a timely fashion. Part of Plaintiff Whitton's income was dependent on defendant Robert's finalizing and closing loans on those clients referred to him by her. In one circumstance defendant Roberts refused to call back a potential client referred by Plaintiff Whitton and said client turned to another mortgage broker for his loan needs. When Plaintiff Whitton suggested that she refer these clients to Plaintiff McCoy, defendant flatly refused and the discriminatory, hostile, and harassing work environment became progressively worse for both plaintiffs in retaliation.

17

Plaintiff Whitton also complained to Roberts about not being reimbursed in a timely fashion for marketing related costs she had incurred on behalf of PRM Utah and in a fashion that had been agreed to by defendant Roberts. When Plaintiff Whitton was terminated, she was never paid for certain costs she incurred, even after she demanded reimbursement consistent with past practice.

18

Plaintiffs suffered extreme stress as a result of the discriminatory, retaliatory, and hostile work environment that they were forced to endure on a daily basis and missed work due to their stress.

19

The discriminatory, hostile, and harassing work environment became progressively worse in retaliation to Plaintiffs' opposition to the above-described conduct. Plaintiffs were wrongfully terminated by Roberts on November 22, 2006 in retaliation for opposing the above-described conduct towards them.

20

At the time of her departure, Ms. McCoy was the highest performer in both of the offices owned and operated by defendant Roberts in Oregon.

21

Plaintiff McCoy was allowed to pick up some of her personal belongings, while others had already been removed from her office. Those items that were missing from her office have still not been returned despite written request that the company do so.

22

Defendant Roberts declined to reimburse Plaintiff Whitton for the business expenses incurred on behalf of defendants in the course of her employment with defendant PRM Utah.

23

There were no final paychecks prepared for plaintiffs, nor were they received until weeks after their termination.

24

As a direct and proximate cause of defendants' actions, plaintiffs have suffered and continue to suffer loss of earnings and have suffered emotional distress, anguish, humiliation, and embarrassment.

///

///

///

FIRST CLAIM FOR RELIEF
Wrongful Discharge in Violation of Public Policy
(Against PRM Utah)

25

Plaintiffs restate and incorporate by reference paragraphs 1 - 24, inclusive, as though fully set forth herein.

26

At all materials times, the public policy of the State of Oregon was to prohibit an employer from: 1) discriminating against employees because of sex and/or age; 2) discrimination, retaliation, and/or termination against an employee who reports, opposes, resists, and/or complains about an employer's discrimination based on sex and/or age; 3) discrimination, retaliation, and/or termination of an employee who reports, opposes, resists, and/or complains about illegal, unethical, fraudulent, and/or deceptive business practices; and 4) discrimination, retaliation, and/or termination of an employee who has makes complaints about unpaid wages. This public policy is embodied in the common law, statutes, and regulations of the State of Oregon and the United States protecting consumers from fraud, danger, and illegal conduct and including, but not limited to: ORS 659A.030 et seq.; OAR 839-005-0000 et seq.; ORS 659A.230; ORS 646.608 et seq.; OAR 839-010-0100 et seq.; Banaitis v. Mitsubishi Bank, LTD, 129 Or App 371 (1994); ORS 659A.865; ORS 652.110 et seq.; ORS 652.355; ORS 653.060; and OAR 839-020-0030 et seq.

27

PRM Utah, through its agents and/or employees, violated these public policies by retaliating against plaintiffs and by terminating plaintiffs' employment because plaintiffs reported, complained about, resisted, and/or opposed: 1) what they in good faith believed to be discrimination against them and/or other employees and vendors because of sex and/or age; 2) not receiving timely reimbursement for business related expenses; and/or 3) what they in good

1 faith believed to be unlawful and/or criminal activity. The termination was unlawful and in
2 violation of the public policy of the State of Oregon.

3 28

4 Defendant's termination of plaintiffs was in retaliation for plaintiffs' pursuit and
5 exercise of plaintiffs' rights related to plaintiffs' roles as employees, which rights are of
6 important public interest.

7 29

8 As a direct and proximate result of Defendants' unlawful conduct, plaintiffs have
9 suffered emotional distress for which they each seek non-economic damages in a reasonable
10 amount to be determined by the jury and in an amount not to exceed \$400,000 for each plaintiff.

11 30

12 Plaintiff McCoy has suffered and continues to suffer loss of earnings and other
13 employment benefits and job opportunities in amounts to be proven at trial and not to exceed
14 \$125,000, together with interest and the amounts necessary to offset the income tax
15 consequences of the award.

16 31

17 Plaintiff Whitton has suffered and continues to suffer loss of earnings and other
18 employment benefits and job opportunities in amounts to be proven at trial and not to exceed
19 \$240,000, together with interest and the amounts necessary to offset the income tax
20 consequences of the award.

21 32

22 Pursuant to ORS 20.107, Plaintiffs also request attorney fees and costs in an amount to
23 be proven at trial.

24 33

25 Plaintiffs also seek a permanent injunction enjoining Defendant from engaging in any
26

1 employment practice which discriminates on the basis as alleged in this Complaint.

2 34

3 Plaintiffs place Defendant on notice of their intent to move the Court to amend this
4 Complaint to seek punitive damages at a later date and to seek all relevant financial documents
5 from Defendant.

6 **SECOND CLAIM FOR RELIEF**
7 **Intentional Infliction of Emotional Distress**
8 **(Against All Defendants)**

9 35

10 Plaintiffs restate and incorporate by reference paragraphs 1 - 24, inclusive, as though
11 fully set forth herein.

12 36

13 Defendants' pattern of retaliation, harassment, abuse, discrimination, and eventual
14 termination was extreme and outrageous and constituted an extraordinary transgression of the
15 bounds of socially tolerable conduct.

16 37

17 Defendants' relationship with plaintiffs was a "special relationship."

18 38

19 Defendants acted intentionally to cause, or acted volitionally and were substantially
20 certain that the acts would cause, plaintiffs to suffer severe emotional distress and damages.

21 39

22 As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have
23 suffered severe emotional distress for which they seek non-economic damages in a fair and just
24 amount to be determined by a jury and not to exceed \$300,000.

25 40

26 Plaintiff McCoy has suffered and continues to suffer loss of earnings and other

1 employment benefits and job opportunities in amounts to be proven at trial and not to exceed
 2 \$125,000, together with interest and the amounts necessary to offset the income tax
 3 consequences of the award.

4 41

5 Plaintiff Whitton has suffered and continues to suffer loss of earnings and other
 6 employment benefits and job opportunities in amounts to be proven at trial and not to exceed
 7 \$240,000, together with interest and the amounts necessary to offset the income tax
 8 consequences of the award.

9 42

10 Plaintiffs also seek a permanent injunction enjoining Defendants from engaging in any
 11 employment practice which discriminates on the basis as alleged in this Complaint.

12 43

13 Plaintiffs place Defendants on notice of their intent to move the Court to amend this
 14 Complaint to seek punitive damages at a later date and to seek all relevant financial documents
 15 from Defendants.

16 **THIRD CLAIM FOR RELIEF**
 17 **Intentional Interference with Economic Relations**
 18 **(Against All Defendants)**

19 44

20 Plaintiffs restate and incorporate by reference paragraphs 1-24, inclusive, as though fully
 21 set forth herein.

22 45

23 The individual Defendants, individually and in concert, intentionally interfered with
 24 Plaintiffs' employment pursuits with PRM Utah and others. PRM Utah intentionally interfered
 25 with Plaintiffs' employment pursuits with other employers.

26 ///

46

The individual defendant Roberts, in interfering with Plaintiffs' employment pursuits with PRM Utah (including drinking in front of potential clients causing them not to pursue a deal with PRM Utah and failing to follow up with potential clients to close deals), was outside the scope of his employment. Both Defendants' interferences with Plaintiffs' relationship with other potential employers was in the form of publishing false information regarding Plaintiffs' employment. These interferences were accomplished through improper means and with improper purposes.

47

Defendants' actions caused interference and damage to Plaintiffs' reputation and employment opportunities with other employers and economic damages due to loss sales and other employment opportunities with PRM Utah.

48

As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have suffered severe emotional distress for which they seek non-economic damages in a fair and just amount to be determined by a jury and not to exceed \$300,000.

49

Plaintiff McCoy has suffered and continues to suffer loss of earnings and other employment benefits and job opportunities in amounts to be proven at trial and not to exceed \$125,000, together with interest and the amounts necessary to offset the income tax consequences of the award.

50

Plaintiff Whitton has suffered and continues to suffer loss of earnings and other employment benefits in amounts to be proven at trial and not to exceed \$240,000 and additional damages in the amount of \$100,000 for the loss of job opportunities, in the form of lost sales

1 from the improper means and improper intentions of defendant Roberts, together with interest
2 and the amounts necessary to offset the income tax consequences of the award.

3 51

4 Plaintiffs also seek a permanent injunction enjoining Defendants from engaging in any
5 employment practice which discriminates on the basis as alleged in this Complaint.

6 52

7 Plaintiffs place Defendants on notice of their intent to move the Court to amend this
8 Complaint to seek punitive damages at a later date and to seek all relevant financial documents
9 from Defendants.

10 **FOURTH CLAIM FOR RELIEF**
11 **(Unjust Enrichment)**
12 **(Against All Defendants)**

13 53

14 Plaintiffs restate and incorporate by reference paragraphs 1 - 24, inclusive. as though
15 fully set forth herein.

16 54

17 As a result of the conduct described above, defendants have been and will be unjustly
18 enriched at the expense of Plaintiffs. Specifically, defendants' failure to reimburse plaintiffs for
19 personal property not returned and company costs as described above has unjustly enriched
20 defendants at an amount to be proven at trial.

21 55

22 Defendants should be required to disgorge this unjust enrichment.

23 **JURY TRIAL DEMAND**

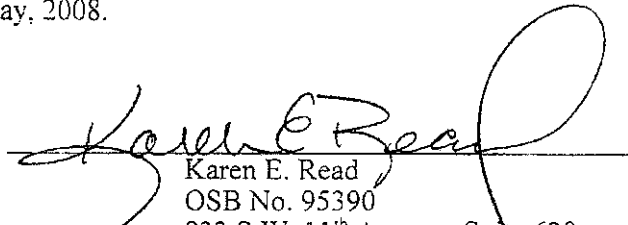
24 Plaintiffs demands a jury trial on all claims to the extent allowed under the law.

25 WHEREFORE, Plaintiffs requests the following judgments and relief according to proof:

26 ///

1. Economic damages;
2. Non-economic damages;
3. Reasonable costs and attorney's fees;
4. A permanent injunction enjoining Defendants from engaging in any employment practice which discriminates on the basis as alleged in this Complaint;
5. For prejudgment and post judgment interest as appropriate and allowed by law;
6. On all claims, as applicable, amounts necessary to offset the income tax consequences of receiving a lump sum payment, rather than receiving payment of wages over the applicable time frame;
7. Upon motion, punitive damages; and
8. All such other relief as this Court may deem proper.

DATED this 21st day of May, 2008.


Karen E. Read
OSB No. 95390
833 S.W. 11th Avenue, Suite 628
Portland, OR 97205
(503) 243-4088 (phone)
(503) 210-0477 (fax)
karenr@readlawyers.com

Attorney for Plaintiffs

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAHMARGO McCOY and JODI WHITTON also known as
JOANNE WHITTON, individually,

Plaintiffs,

vs.

PRIMARY RESIDENTIAL MORTGAGE,
a foreign corporation registered to do business in Oregon
also doing business as PRIMARY RESIDENTIAL MTG.
INC.; SCOTT M. ROBERTS, individually,

Defendants.

Case No.

0805-07453

SUMMONS

To: SCOTT M. ROBERTS
(at place of business) PRIMARY RESIDENTIAL MORTGAGE
825 NE Evans St.
McMinnville, OR 97128
(503) 472-9899

You are hereby required to appear and defend the complaint filed against you, and to appear and defend the complaint within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, the plaintiffs will apply to the court for the relief demanded in the complaint.

**NOTICE TO THE DEFENDANT:
READ THESE PAPERS CAREFULLY!**

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

SIGNATURE OF ATTORNEY

Karen E. Read

ATTORNEY'S/AUTHOR'S NAME

3833 S.W. 11th Ave. Suite 628
ADDRESSPortland, OR 97205
CITY STATE ZIP

TRIAL ATTORNEY IF OTHER THAN ABOVE

STATE OF OREGON; County of Multnomah) ss.

I, the undersigned attorney of record for plaintiff(s), certify that the foregoing is a true and correct copy of the original summons in the above entitled action.

ATTORNEY OF RECORD

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are to serve this summons, together with a true copy of the complaint mentioned therein, upon the entity(ies) to whom or which this summons is directed, and to make and file a separate similar document which you shall attach hereto.

LAW OFFICE OF KAREN READ
ATTORNEYS FOR PLAINTIFFS
833 S.W. 11th Ave., Suite 628
Portland, OR 97205
Telephone (503) 243-4088

ATTORNEYS FOR PLAINTIFFS

EXHIBIT B
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PROOF OF SERVICE

STATE OF _____) ss.

County of _____)

I hereby certify that I made service of the foregoing summons upon the individuals and other legal entities to be served, named below, by delivering or leaving true copies of said summons and the complaint mentioned therein, certified to be such by the attorney for the plaintiff, as follows:

Personal Service Upon Individual(s)

Upon _____, by delivering such true copy to him/her, personally and in person, at _____, on _____, 20____, at _____ o'clock ____m.

Substituted Service Upon Individual(s)**

Upon _____, by delivering such true copy to his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a person over the age of 14 years and a member of the household of the person served on _____, 20____, at _____ o'clock ____m.

Upon _____, by delivering such true copy to his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a person over the age of 14 years and a member of the household of the person served on _____, 20____, at _____ o'clock ____m.

Office Service Upon Individual(s)**

Upon _____, at the office which he/she maintains for the conduct of business as _____, by leaving such true copy with _____, the person who is apparently in charge, on _____, 20____, during normal working hours, at to-wit: _____ o'clock ____m.

Service on Corporations, Limited Partnerships or Unincorporated Associations Subject to Suit Under a Common Name

Upon _____, by
(NAME OF CORPORATION, LIMITED PARTNERSHIP, ETC.)

- (a) delivering such true copy, personally and in person, to _____ who is a/the * thereof; OR
- (b) leaving such true copy with _____, the person who is apparently in charge of the office of _____, who is a/the * thereof;

*Specify registered agent, officer (by title), director, general partner, managing agent.

at _____, on _____, 20____, at _____ o'clock, ____m.

DATED _____, 20____.

SHERIFF

By _____
DEPUTY

I further certify that I am a competent person 18 years of age or older and a resident of the state of service or the State of Oregon, and that I am not a party to nor an officer, director or employee of, nor attorney for any party, corporate or otherwise; that the person, firm or corporation served by me is the identical person, firm or corporation named in the action.

DATED _____, 20____.

SIGNATURE

TYPE OR PRINT NAME

ADDRESS

Phone _____

The signature lines on the left should be used only by an Oregon county sheriff or deputy; all other servers complete certificate on the right. The Proof of Service above contains most, but not all, of the methods of service. For example, this form does not include proof of service on a minor or incompetent person. See ORCP 7D.(2) and 7D.(3) for complete service methods on particular parties. **Where substituted or office service is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed a true copy of the summons and complaint to the defendant at the defendant's dwelling house or usual place of abode, together with a statement of the time, date and place at which such service was made. Use S-N Form No. 1149 or equivalent.

EXHIBIT

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PAGE

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

MARGO McCOY and JODI WHITTON also)
known as JOANNE WHITTON, individually,)

Plaintiffs,)

v.)

PRIMARY RESIDENTIAL MORTGAGE,)
a foreign corporation registered to do business)
in Oregon also doing business as PRIMARY)
RESIDENTIAL MTG, INC.; SCOTT M.)
ROBERTS, individually,)

Defendants.)

Case No. 0805-07453

COMPLAINT

Wrongful Discharge in Violation of Public
Policy; Intentional Infliction of Emotional
Distress; Intentional Interference with
Economic Relations; Unjust Enrichment

(Not Subject to Mandatory Arbitration)

DEMAND FOR JURY TRIAL

For a claim for relief against Defendant, Plaintiffs hereby alleges as follows:

FACTUAL STATEMENT

1

At all material times, Plaintiff Margo McCoy was and is a citizen of the United
States, residing in Washington County, Oregon.

2

At all material times, Plaintiff Jodi Whitton also known as Joanne Whitton
(hereinafter "Ms. Whitton" or "Jodi Whitton") was and is a citizen of the United States, residing
in Yamhill County, Oregon.

3

At all material times, defendant Primary Residential Mortgage and also doing

1 business under the assumed business name of "Primary Residential Mtg., Inc." (hereinafter
 2 "PRM Utah") was a foreign corporation registered to do business in the State of Oregon and at
 3 all material times were Plaintiffs' employer and conducted regular and sustained business
 4 activity in Multnomah County, Oregon.

4

6 At all material times, defendant Scott M. Roberts (hereinafter "defendant
 7 Roberts") was and is a citizen of the United States, residing in Yamhill County, Oregon, and an
 8 authorized agent of and/or employed by PRM Utah and was, in substantial part, acting within
 9 the scope of such agency and employment. At all material times, PRM Utah was vicariously
 10 liable for the acts of its agents and employees who were acting within the scope of their
 11 employment.

5

13 Plaintiff McCoy was hired by PRM Utah on or about May 10, 2006 as a full time loan
 14 officer. Throughout her employment with PRM Utah, Plaintiff McCoy consistently performed
 15 her work duties successfully, meeting or exceeding the requirements of her job position.

6

17 Plaintiff Whitton was hired by PRM Utah on or about August 10, 2005 as a full time
 18 loan officer assistant, whose job responsibilities included identifying and referring potential
 19 clients to defendant Roberts to finalize home loans, as well as undertaking marketing efforts for
 20 the office with a \$1,200 per month budget for said activities. Throughout her employment with
 21 PRM Utah, Plaintiff Whitton consistently performed her work duties successfully, meeting or
 22 exceeding the requirements of her job position.

7

24 Prior to their employment, Plaintiffs were both promised substantial assistance from
 25 defendants, through access to a database of names and contact information for potential clients.

1 Said assistance was never provided to plaintiffs even after plaintiffs' complaints while it was
2 given to other male employees.

3 8

4 Beginning in or around June, 2006, defendant Roberts, the Manager of PRM Utah's
5 Oregon offices, began engaging in harassing conduct against plaintiffs because of plaintiffs'
6 female gender. In addition, defendant Roberts was engaging in harassing conduct against
7 Plaintiff Whitton because of her age and disability: Plaintiff Whitton was 56 years old in June
8 2006 and had left sided deficits, including extremely limited use of her left hand and arm due to
9 a stroke she had suffered in May, 2005.

10 9

11 Defendant Robert's harassing conduct towards plaintiffs included constant hostile,
12 bullying, and belittling comments to plaintiffs. On occasion, these comments were said in the
13 presence of other employees—including at staff meetings. Roberts regularly and
14 inappropriately engaged in hostile and demeaning verbal and sexist conduct towards plaintiffs.
15 This included comments about women's body parts, including referring to the breasts of a friend
16 of Plaintiff Whitton as "jugs" after a professional business meeting with this individual and the
17 "stupid" women vendors who were only hired because they were "hot." Additionally, Plaintiff
18 Whitton was treated substantially worse than the much younger female employees. Plaintiffs
19 resisted, opposed, and complained to Roberts about the above-described hostile and
20 discriminatory treatment that they were receiving.

21 10

22 On or about July, 2006, plaintiffs, along with other PRM employees were required to be
23 present for a golf function sponsored by defendants at the Portland Golf Club for its clients,
24 vendors and other colleagues.

25 ///

26 COMPLAINT - Page 3

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(503) 243-4088 (phone); (503) 210-0477 (fax)

EXHIBIT
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S

11

At this function, plaintiffs, were asked by defendant Roberts to hand out shirts to all attendees which were imprinted with a statement developed by defendant Roberts which had sexual connotation.

12

Defendant Roberts also brought and forced Plaintiff McCoy to hide and serve hard alcohol on the open golf course in violation of Course policy & city ordinance. Plaintiff Whitton also observed his providing and drinking alcohol on the open course. Plaintiffs objected to defendant Roberts, clearly indicating to him that his actions related to and at the golf function were inappropriate, possibly illegal, unwelcome and/or caused them extreme discomfort.

13

On another occasion, defendant Roberts' excessive drinking at a lunch meeting with a potential client referred by Plaintiff Whitton caused this individual to pull out of the deal because he didn't have confidence in a loan officer who would drink like that at lunch in front of a potential client. This individual was seeking financing for a multi-million dollar, multiple dwelling purchase, from which Plaintiff Whitton would have been entitled to at least a 20% share of any commission earned by defendant Roberts had his behavior not made the potential client change his mind about doing business with Primary Residential Mortgage.

14

On several occasions, defendant Roberts demanded that plaintiffs wear ill fitting company shirts, even after they complained to Roberts that the shirts cut across plaintiffs' breasts making them feel obscene. When plaintiffs refused to wear the shirts to an industry wide training course, in plaintiffs' presence, defendant Roberts engaged in verbally demeaning and sexist conduct in front of another attendee who worked at a different company.

15

The sexist, discriminatory, harassing, and hostile work environment escalated into the fall. To further discriminate and retaliate against plaintiffs, Roberts created a hostile work environment for plaintiffs by yelling at them and writing scathing emails to plaintiffs. The younger and/or male employees of PRM Utah were not subjected to this hostile work environment.

16

Shortly before her termination, Plaintiff Whitton complained to defendant Roberts that the clients she was referring to him were not being served adequately or in a timely fashion. Part of Plaintiff Whitton's income was dependent on defendant Robert's finalizing and closing loans on those clients referred to him by her. In one circumstance defendant Roberts refused to call back a potential client referred by Plaintiff Whitton and said client turned to another mortgage broker for his loan needs. When Plaintiff Whitton suggested that she refer these clients to Plaintiff McCoy, defendant flatly refused and the discriminatory, hostile, and harassing work environment became progressively worse for both plaintiffs in retaliation.

17

Plaintiff Whitton also complained to Roberts about not being reimbursed in a timely fashion for marketing related costs she had incurred on behalf of PRM Utah and in a fashion that had been agreed to by defendant Roberts. When Plaintiff Whitton was terminated, she was never paid for certain costs she incurred, even after she demanded reimbursement consistent with past practice.

18

Plaintiffs suffered extreme stress as a result of the discriminatory, retaliatory, and hostile work environment that they were forced to endure on a daily basis and missed work due to their stress.

19

The discriminatory, hostile, and harassing work environment became progressively worse in retaliation to Plaintiffs' opposition to the above-described conduct. Plaintiffs were wrongfully terminated by Roberts on November 22, 2006 in retaliation for opposing the above-described conduct towards them.

20

At the time of her departure, Ms. McCoy was the highest performer in both of the offices owned and operated by defendant Roberts in Oregon.

21

Plaintiff McCoy was allowed to pick up some of her personal belongings, while others had already been removed from her office. Those items that were missing from her office have still not been returned despite written request that the company do so.

22

Defendant Roberts declined to reimburse Plaintiff Whitton for the business expenses incurred on behalf of defendants in the course of her employment with defendant PRM Utah.

23

There were no final paychecks prepared for plaintiffs, nor were they received until weeks after their termination.

24

As a direct and proximate cause of defendants' actions, plaintiffs have suffered and continue to suffer loss of earnings and have suffered emotional distress, anguish, humiliation, and embarrassment.

///

///

///

FIRST CLAIM FOR RELIEF
Wrongful Discharge in Violation of Public Policy
(Against PRM Utah)

25

Plaintiffs restate and incorporate by reference paragraphs 1 - 24, inclusive, as though fully set forth herein.

26

At all materials times, the public policy of the State of Oregon was to prohibit an employer from: 1) discriminating against employees because of sex and/or age; 2) discrimination, retaliation, and/or termination against an employee who reports, opposes, resists, and/or complains about an employer's discrimination based on sex and/or age; 3) discrimination, retaliation, and/or termination of an employee who reports, opposes, resists, and/or complains about illegal, unethical, fraudulent, and/or deceptive business practices; and 4) discrimination, retaliation, and/or termination of an employee who has makes complaints about unpaid wages. This public policy is embodied in the common law, statutes, and regulations of the State of Oregon and the United States protecting consumers from fraud, danger, and illegal conduct and including, but not limited to: ORS 659A.030 et seq.; OAR 839-005-0000 et seq.; ORS 659A.230; ORS 646.608 et seq.; OAR 839-010-0100 et seq.; Banaitis v. Mitsubishi Bank, LTD, 129 Or App 371 (1994); ORS 659A.865; ORS 652.110 et seq.; ORS 652.355; ORS 653.060; and OAR 839-020-0030 et seq.

27

PRM Utah, through its agents and/or employees, violated these public policies by retaliating against plaintiffs and by terminating plaintiffs' employment because plaintiffs reported, complained about, resisted, and/or opposed: 1) what they in good faith believed to be discrimination against them and/or other employees and vendors because of sex and/or age; 2) not receiving timely reimbursement for business related expenses; and/or 3) what they in good

1 faith believed to be unlawful and/or criminal activity. The termination was unlawful and in
2 violation of the public policy of the State of Oregon.

3 28

4 Defendant's termination of plaintiffs was in retaliation for plaintiffs' pursuit and
5 exercise of plaintiffs' rights related to plaintiffs' roles as employees, which rights are of
6 important public interest.

7 29

8 As a direct and proximate result of Defendants' unlawful conduct, plaintiffs have
9 suffered emotional distress for which they each seek non-economic damages in a reasonable
10 amount to be determined by the jury and in an amount not to exceed \$400,000 for each plaintiff.

11 30

12 Plaintiff McCoy has suffered and continues to suffer loss of earnings and other
13 employment benefits and job opportunities in amounts to be proven at trial and not to exceed
14 \$125,000, together with interest and the amounts necessary to offset the income tax
15 consequences of the award.

16 31

17 Plaintiff Whitton has suffered and continues to suffer loss of earnings and other
18 employment benefits and job opportunities in amounts to be proven at trial and not to exceed
19 \$240,000, together with interest and the amounts necessary to offset the income tax
20 consequences of the award.

21 32

22 Pursuant to ORS 20.107, Plaintiffs also request attorney fees and costs in an amount to
23 be proven at trial.

24 33

25 Plaintiffs also seek a permanent injunction enjoining Defendant from engaging in any
26

1 employment practice which discriminates on the basis as alleged in this Complaint.

2 34

3 Plaintiffs place Defendant on notice of their intent to move the Court to amend this
4 Complaint to seek punitive damages at a later date and to seek all relevant financial documents
5 from Defendant.

6 **SECOND CLAIM FOR RELIEF**
7 **Intentional Infliction of Emotional Distress**
8 **(Against All Defendants)**

9 35

10 Plaintiffs restate and incorporate by reference paragraphs 1 - 24, inclusive, as though
11 fully set forth herein.

12 36

13 Defendants' pattern of retaliation, harassment, abuse, discrimination, and eventual
14 termination was extreme and outrageous and constituted an extraordinary transgression of the
15 bounds of socially tolerable conduct.

16 37

17 Defendants' relationship with plaintiffs was a "special relationship."

18 38

19 Defendants acted intentionally to cause, or acted volitionally and were substantially
20 certain that the acts would cause, plaintiffs to suffer severe emotional distress and damages.

21 39

22 As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have
23 suffered severe emotional distress for which they seek non-economic damages in a fair and just
24 amount to be determined by a jury and not to exceed \$300,000.

25 40

26 Plaintiff McCoy has suffered and continues to suffer loss of earnings and other

1 employment benefits and job opportunities in amounts to be proven at trial and not to exceed
 2 \$125,000, together with interest and the amounts necessary to offset the income tax
 3 consequences of the award.

4 41

5 Plaintiff Whitton has suffered and continues to suffer loss of earnings and other
 6 employment benefits and job opportunities in amounts to be proven at trial and not to exceed
 7 \$240,000, together with interest and the amounts necessary to offset the income tax
 8 consequences of the award.

9 42

10 Plaintiffs also seek a permanent injunction enjoining Defendants from engaging in any
 11 employment practice which discriminates on the basis as alleged in this Complaint.

12 43

13 Plaintiffs place Defendants on notice of their intent to move the Court to amend this
 14 Complaint to seek punitive damages at a later date and to seek all relevant financial documents
 15 from Defendants.

16 **THIRD CLAIM FOR RELIEF**
 17 **Intentional Interference with Economic Relations**
 18 **(Against All Defendants)**

19 44

20 Plaintiffs restate and incorporate by reference paragraphs 1-24, inclusive, as though fully
 21 set forth herein.

22 45

23 The individual Defendants, individually and in concert, intentionally interfered with
 24 Plaintiffs' employment pursuits with PRM Utah and others. PRM Utah intentionally interfered
 25 with Plaintiffs' employment pursuits with other employers.

26 ///

46

The individual defendant Roberts, in interfering with Plaintiffs' employment pursuits with PRM Utah (including drinking in front of potential clients causing them not to pursue a deal with PRM Utah and failing to follow up with potential clients to close deals), was outside the scope of his employment. Both Defendants' interferences with Plaintiffs' relationship with other potential employers was in the form of publishing false information regarding Plaintiffs' employment. These interferences were accomplished through improper means and with improper purposes.

47

Defendants' actions caused interference and damage to Plaintiffs' reputation and employment opportunities with other employers and economic damages due to loss sales and other employment opportunities with PRM Utah.

48

As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have suffered severe emotional distress for which they seek non-economic damages in a fair and just amount to be determined by a jury and not to exceed \$300,000.

49

Plaintiff McCoy has suffered and continues to suffer loss of earnings and other employment benefits and job opportunities in amounts to be proven at trial and not to exceed \$125,000, together with interest and the amounts necessary to offset the income tax consequences of the award.

50

Plaintiff Whitton has suffered and continues to suffer loss of earnings and other employment benefits in amounts to be proven at trial and not to exceed \$240,000 and additional damages in the amount of \$100,000 for the loss of job opportunities, in the form of lost sales

1 from the improper means and improper intentions of defendant Roberts, together with interest
2 and the amounts necessary to offset the income tax consequences of the award.

3 51

4 Plaintiffs also seek a permanent injunction enjoining Defendants from engaging in any
5 employment practice which discriminates on the basis as alleged in this Complaint.

6 52

7 Plaintiffs place Defendants on notice of their intent to move the Court to amend this
8 Complaint to seek punitive damages at a later date and to seek all relevant financial documents
9 from Defendants.

10 **FOURTH CLAIM FOR RELIEF**
11 **(Unjust Enrichment)**
12 **(Against All Defendants)**

13 53

14 Plaintiffs restate and incorporate by reference paragraphs 1 - 24, inclusive, as though
15 fully set forth herein.

16 54

17 As a result of the conduct described above, defendants have been and will be unjustly
18 enriched at the expense of Plaintiffs. Specifically, defendants' failure to reimburse plaintiffs for
19 personal property not returned and company costs as described above has unjustly enriched
20 defendants at an amount to be proven at trial.

21 55

22 Defendants should be required to disgorge this unjust enrichment.

23 **JURY TRIAL DEMAND**

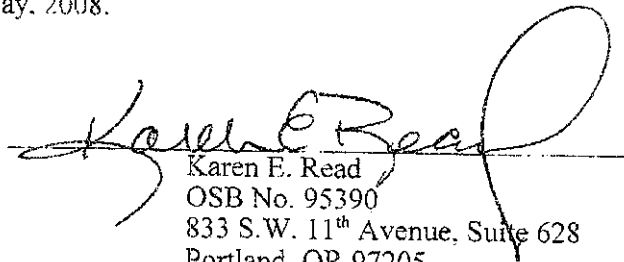
24 Plaintiffs demands a jury trial on all claims to the extent allowed under the law.

25 WHEREFORE, Plaintiffs requests the following judgments and relief according to proof:

26 ///

1. Economic damages;
2. Non-economic damages;
3. Reasonable costs and attorney's fees;
4. A permanent injunction enjoining Defendants from engaging in any employment practice which discriminates on the basis as alleged in this Complaint;
5. For prejudgment and post judgment interest as appropriate and allowed by law;
6. On all claims, as applicable, amounts necessary to offset the income tax consequences of receiving a lump sum payment, rather than receiving payment of wages over the applicable time frame;
7. Upon motion, punitive damages; and
8. All such other relief as this Court may deem proper.

DATED this 21st day of May, 2008.



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